

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
November 29 – December 3, 1999

| Date Issued | Type of Case(1) | Proceeding or Appn. No. | Party or Parties | TTAB Panel(2) | Issue | TTAB Decision | Opposer's or Petitioner's Mark and Goods or Services | Applicant's or Respondent's Mark and Goods or Services | Mark and Goods Cited by Examining Attorney | Examining Attorney | Citable as Precedent of TTAB |
|-------------|--|--|---|-----------------------|--|---|--|--|--|--------------------|------------------------------|
| 11-29 | OPP OPP OPP OPP OPP OPP | 82,056 82,057 82,058 82,059 82,061 82,082 82,179 | The Oakland Corp. v. Nylok Fastener Corp. | Hanak Hohein Chapman* | de jure functionality; whether the matter applicant seeks to register has become distinctive of its goods under Section 2(f) | Opposition Dismissed (in all seven cases) | | a blue patch on threads of an internally threaded fastener, with blue patch extending less than 160 degrees around the fastener's circumference and a blue patch on threads of an internally threaded fastener, with blue patch extending more than 160 degrees around the fastener's circumference and a blue pellet on an internally threaded fastener extending from the exterior to the interior surface of the fastener [<i>all three marks for various internally-threaded fasteners</i>]; a blue patch on the threads of an externally threaded fastener, with blue patch extending more than 90 but less than 360 degrees around the fastener's circumference and a blue patch on the threads of an externally threaded fastener, with blue patch extending 360 degrees around the fastener's circumference and a blue pellet on a portion of the threads of an externally threaded fastener and a strip of blue extending perpendicular to a portion of the threads of an externally threaded fastener [<i>all four marks for various externally threaded fasteners</i>] | | | No |

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(2) *=Opinion Writer; (D)=Dissenting Panel Member

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| 11-29 | EX | 75/324,702 | California SunCare, Inc. | Quinn Walters Wendel* | 2(d) | Refusal Affirmed | | "HOT CHOCOLATE" [skin care products, namely, tanning lotions] | "HOT CHOCOLATE" [cologne] | Seegars | No |
| 11-29 | EX | 74/686,523 | FG Industries | Seeherman Walters* McLeod | 2(d) | Refusal Reversed | | "BLANC NOIR" [casual wear, namely, shorts, skirts, pants, jackets, socks, shoes, and hats] | mark consisting of: the letters "MDC" (in highly stylized form), the words "MADRID," "AMERICA," "BLANC," and "N'OIR," and design elements [t-shirts, jean sweat shirts, sweat pants, jackets, shorts, pants, and caps and hats] | Matthews | No |
| 11-29 | EX | 75/181,451 | Tiara Motorcoach Corp. | Hanak Wendel* Rogers | 2(d) | Refusal Affirmed | | "TIARA INTERNATIONAL MOTORCOACH CORPORATION" (and design) [conversion vans, minivans, pick-up trucks, and sport utility vehicles] | "TIARA" (in stylized lettering) [automobiles]; "TIARA" [vans and trucks and structural parts therefor and van conversions] | Greenbaum | No |
| 11-29 | EX (R) | 74/631,589 | Greenleaf, Inc. | Cissel Hairston* Walters | de jure functionality; whether applicant's product configuration has become distinctive under Section 2(f) | Request for Reconsideration Denied [Refusal Affirmed (on both grounds)] | | configuration of the flatpack envelope that serves as a container for applicant's goods [air fresheners] | | Sapp | No |

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| 11-29 | EX | 75/137,097 | Platinum Technology, Inc. | Hanak* Bottorff Rogers | 2(e)(1); whether applicant failed to comply with Rule 2.61(b) | Refusal Reversed | | "REALTIMEEXTRACT" [computer software for use in database access, navigation, implementation, administration, conversion, migration, and management; computer software for database query and reporting; computer software for client/server and remote computing applications; computer software utilities; computer software containing database system tools; computer software providing access to global computer networks and wide area networks; and instructional manuals sold as a unit] | | Vanston | No |
| 11-29 | EX (R) | 74/375,406 | L'Nard Restorative Concepts, Inc. | Simms* Cissel Seeherman | whether configuration is de jure functional and, if not, whether it has acquired secondary meaning and is registrable under Sec. 2(f) | Second Request for Reconsideration Denied [Refusal Affirmed (on both grounds)] | | configuration of foot brace [foot orthosis device] | | Micheli | No |

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| 11-29 | EX | 75/178,434 | Broadview Associates LLC | Simms* Cissel Chapman | 2(e)(1) | Refusal Affirmed | | "INFORMATION TECHNOLOGY INDEX" [written reports rendered from time to time on the performance of information technology stocks] | | S. Kim | No |
| 11-30 | OPP OPP | 98,964 99,005 | R.M.S. Titanic, Inc. v. R.M.S. Ltd. N.Y.C. | Simms Seeherman* Walters | 2(d); 2(a); 2(e)(1); [false suggestion of a connection]; whether the matter applicant seeks to register functions as a trademark or is merely ornamental | Opposition Sustained (only on ground that matter fails to function as a trademark and is merely ornamental) | "TITANIC" [merchandise associated with and display of artifacts connected with the wreck of the RMS Titanic] | "R M S TITANIC" and "TITANIC" [clothing, namely, t-shirts, sweatshirts, shirts, hats and caps] | | | No |
| 11-30 | EX | 74/689,088 | Armonds Mfg. Co., Inc. | Rice* Seeherman Hairston | de jure functionality; whether the configuration of applicant's goods is either inherently distinctive or has acquired distinctiveness through use in commerce (Sec. 2(f)) | Refusal Affirmed (on grounds of de jure functionality and lack of inherent distinctiveness) | | configuration of a toothpick [toothpicks] | | Cordova | No |

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| 11-30 | EX | 75/250,032 | M C Y III Corp. | Hairston Walters* Rogers | whether the matter asserted for registration functions as a service mark; genericness | Refusal Reversed | | "ENGINE FLUSH" [distributorship services featuring automotive engine flush machines, parts therefor, and chemical flushes for automotive flushing machine] | | Straser | No |
| 12-2 | EX | 75/211,532 | Innotek Pet Products, Inc. | Quinn Chapman McLeod* | 2(e)(1) | Refusal Affirmed | | "COW TEMP" [temperature sensing devices for bovines, namely, electronic temperature sensors and data transmitters] | | R. Kim | No |
| 12-3 | EX | 75/058,039 | Emndee, Inc. | Hohein* Walters Holtzman | genericness | Refusal Affirmed | | "THE GRILL" [restaurant services] | | Kastriner | No |
| 12-3 | OPP | 101,147 | Oxycal Laboratories, Inc. v. Natural Organics, Inc. | Seeherman Hairston* Wendel | 2(d) | Opposition Sustained | "ESTER-C" [vitamin and mineral supplements] | "ESTERPLEX" [dietary supplements] | | | No |

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